IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,

AT HYDERABAD

HON'BLE SRI JUSTICE V.V.S. RAO

W.P. No. 19433 OF 2005

Date: 02.09.2005

BETWEEN:

Sri Mtha Munulapati Veerapichamamba Temple

Hanmakonda, Rep. by its Dharmakartha

.... PETITIONER

Vs.

The Warangal Municipal Corporation,

Warangal. Rep. by its Commissioner.

.... RESPONDENT

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No. 19433 OF 2005

ORDER:

Sri Matha Munulapati Veerapichamamba Temple assails the action of the Warangal Municipal Corporation in allegedly encroaching upon the vacant site of the Temple to an extent of 40 to 45 feet for the purpose of road widening programme. It is contended that no action was initiated under the Land Acquisition Act, 1894 or under the provisions of the Hyderabad Municipal Corporation Act, 1955 as applicable to Warangal Municipal Corporation. It is also stated that on 29.8.2005 the officials of the respondent visited the site and marked the portion of the temple property, which is likely to be affected in the road widening. Therefore, the present writ petition is filed.

Heard the learned Assistant Government Pleader for Roads and Buildings.

I n **P. Lakshmana Rao v. Executive Officer,** a Division Bench of this Court issued directions to be followed by Municipal authorities, Panchayat authorities and Revenue authorities for acquiring the land for public purpose. Having regard to the decision of the Division Bench, I have considered similar issue in a number of writ petitions and culled out

various principles of law to be followed by the Government while acquiring/utilizing the private land for road widening. The principles were reiterated by Hon'ble Sri Justice B.Sudershan Reddy in **M. Madhavi Latha v. Rajendranagar Municipality**. The principles laid down by the Division Bench are as follows.

(1). Where a property is required for public purpose viz., widening of roads or for any other purpose, the authorities straightaway cannot take law into their hands and jump into the premises, dispossess or evict the occupants or demolish the property.

(2). If the authorities concerned want to take action for eviction/dispossession of the occupants or demolition, they shall issue 60 days' prior notice notifying as to the nature of the property, the property to whom it belongs and the proposed action calling for explanation/objections, if any, from the occupants. On receipt of such objections, if there is any objection as to the ownership of the property, the authorities should determine the extent of encroachment or unauthorised occupation and also determine whether the property in question belongs to Government/any other local self Government or authority or the occupants and pass appropriate orders within three months from the date of receipt of the objections, after affording an opportunity of being heard to the occupants.

(3). In case where demolition of private property has already been made, the authorities shall determine the damages on the basis of the assessment to be made by the Engineer of the Roads and Buildings Department and disburse the amount of damages quantified forthwith.

(4). If the demolition is in respect of local bodies' Government property, the question of damages does not arise. In such an event, the occupant shall be entitled to remove the material used for the construction.

(5). In case of demolition of private property, the authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of R&B Department and on such assessment of damages, the concerned authorities shall take appropriate steps to disburse the amount quantified forthwith.

(6). If there is any claim for grant/assessment of the property, the concerned authorities shall consider the same in accordance with law taking into consideration the eligibility and the entitlement of occupants, after making enquiry and till such claim is decided, there shall be status quo obtaining as on today regarding the structures.

The writ petition is disposed of as above directing maintenance of status quo as on today. No costs.

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(**V.V.S. RAO, J.)**

2nd September, 2005

Note: Operative portion by Wire

at party's cost

B/o

Js.